

Remarks

The forgoing amendment has been made after a careful review of the present application, the references of record, and the Office Action dated October 6, 2003.

On page 1 of the action, the examiner indicated that claims 7 through 12, 14 through 18, 21 and 25 were objected to, and on page 4 of the action it was indicated that these claims were objected to as being dependent upon a rejected claim, but would be allowable if rewritten in an independent form to include all the limitations of the base claim and any intervening claims. On page 2 of the action, the examiner indicated that claims 1 through 25 were rejected under 35 USC 103(a) as being unpatentable over Davis in view of Hough. The applicant presumes that it was the intent of the examiner to reject only claims 1 though 6, 13, 19, 20, 22, 23, and 24 under 35 USC 103(a), because the other claims were indicated as being allowable.

In the forgoing amendment, the applicant has cancelled claims 8 and 25 and amended claims 1, 5, 6, 9, 10, 13, 14, 19, 20, and 22. Claim 1 has been amended to include all the elements of cancelled claim 8 such that amended claim 1 is for all practical purposes claim 8 written in independent form. The examiner has indicated that claim 8 is allowable, and therefore the applicant submits that amended claim 1 is allowable.

Claims 9 and 10 were originally dependent upon claim 8, but are now made dependent upon claim 1, since claim 1 is effectively claim 8 written in independent form. As a result, claims 2 through 12 are all directly or indirectly dependent upon claim 1 and are allowable for the same reasons recited as to claim 1.

The applicant made minor amendments to claims 5, 6, and 20 to overcome technical defects without changing the scope of these claims.

The applicant has amended claim 13 to provide that the pump includes an inverted funnel having a large diameter lower end and a smaller diameter upper end. This is the fundamental element in claims 8 and 14, which the examiner found to be allowable. This structure is not shown in any of the references of record, and the applicant submits that this structure along with the discharge of pressurized air below the funnel creates the pump for moving water upwardly through the tube of the oxygenating device. In addition to the inverted funnel, claim 14 provided that the funnel have a “frustoconical portion” and a “tubular draft pipe.” These details of the structure of the funnel were not included in amended claim 13, but remain in amended claim 14. It is believed, none the less, that amended claim 13 is allowable over the references of record because none of the references disclose a funnel as part of a pump.

Claim 19 was amended to read more clearly. Claim 19, along with claims 14 through 18, and claims 20 and 21 are all dependent upon claim 13 and are allowable for the same reason with respect to claim 13. Claim 22 has been amended to incorporate the elements of former claim 25 such that amended claim 22 is claim 25 written in independent form. Since claim 25 was previously indicated as being allowable, the applicant submits that amended claim 22 is now allowable. Since claims 23 and 24 are dependent upon claim 22, the applicant submits that these claims are allowable for the same reason as claim 22.

The applicant has also added new claim 26, which is similar to amended claim

1. New claim 26, however, recites only that the pump includes an inverted funnel having a large diameter lower end and smaller diameter upper end. New claim 26 does not include the further limiting language that the walls of the inverted funnel be frustoconical or that a draft pipe extend upwardly from the smaller diameter upper end of the funnel. The applicant believes that the recitation of such structural elements are not needed to overcome the references of record, since none of the references disclose the use of a funnel at all. Accordingly, the applicant submits that new claim 26 is allowable over the references of record.

With the forgoing amendment the applicant believes the present application is in condition for allowance, and reconsideration and allowance is requested.

Respectfully submitted,



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